

Article - Real Property

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§2–118.

(a) Any restriction prohibiting or limiting the use of water or land areas, or any improvement or appurtenance thereto, for any of the purposes listed in subsection (b) of this section whether drafted in the form of an easement, covenant, restriction, or condition, creates an incorporeal property interest in the water or land areas, or the improvement or appurtenance thereto, so restricted, which is enforceable in both law and equity in the same manner as an easement or servitude with respect to the water or land areas, or the improvement or appurtenance thereto, if the restriction is executed in compliance with the requirements of this article for the execution of deeds or the Estates and Trusts Article for the execution of wills.

(b) A restriction as provided in subsection (a) of this section may be for any of the following purposes:

(1) Construction, placement, preservation, maintenance in a particular condition, alteration, removal, or decoration of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

(2) Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or other materials;

(3) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in a manner as to affect the surface or otherwise alter the topography of the area;

(4) Removal or destruction of trees, shrubs, or other vegetation;

(5) Surface use except for purposes of preserving the water or land areas, or the improvement or appurtenance thereto;

(6) Activities affecting drainage, flood control, water conservation, erosion control, soil conservation, or fish or wildlife habitat preservation;

(7) Preservation of exposure of solar energy devices; or

(8) Other acts or uses having any relation to the preservation of water or land areas or the improvement or appurtenance thereto.

(c) If the restriction is not granted for the benefit of any dominant tract of land, it is enforceable with respect to the servient land, both at law and in equity, as an easement in gross, and as such it is inheritable and assignable.

(d) A restriction provided for by this section may be extinguished or released, in whole or in part, in the same manner as other easements.

(e) If any grant, reservation, dedication, devise, or gift of any nature which clearly indicates the maker's intention to subject any interest or estate in property to public use for the preservation of agricultural, historic, or environmental qualities fails to specify a grantee, donee, legatee, or beneficiary to receive the same or specifies a grantee, donee, legatee, or beneficiary who is not legally capable of taking the interest or estate, it passes to the Maryland Agricultural Land Preservation Foundation, the Maryland Historical Trust, or the Maryland Environmental Trust in any proceedings under §§ 14–301 and 14–302 of the Estates and Trusts Article.

(f) (1) If an easement, covenant, restriction, or condition has been granted, devised, dedicated, reserved, or donated to the Maryland Agricultural Land Preservation Foundation, the Maryland Historical Trust, the Maryland Environmental Trust, another land trust as defined in § 3–2A–01 of the Natural Resources Article, a county, or the Department of Natural Resources, a notice of the easement, covenant, restriction, or condition may be recorded in the land records of the county in which the property interest is located.

(2) A notice recorded under paragraph (1) of this subsection must:

(i) State the name and current address of the current holder of the easement, covenant, restriction, or condition;

(ii) Contain a statement that the easement, covenant, restriction, or condition is still in effect as of the date of the notice;

(iii) Contain the recording information for the original easement, covenant, restriction, or condition and the recording information for any associated amendment or corrective document; and

(iv) State the name of the fee simple owner of the land encumbered by the original easement, covenant, restriction, or condition as of the date of the notice.

(3) A notice recorded under paragraph (1) of this subsection shall be indexed among the land records under the name of:

(i) The holder of the easement, covenant, restriction, or condition; and

(ii) The fee simple owner specified in the notice.

(4) Failure to record a notice in accordance with the requirements of this subsection does not impair the rights or interests of the holders of the easement, covenant, restriction, or condition.

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